

MONTANA LEGISLATIVE HISTORY

Chapter 370 19 87

Bill H 53 S _____ Original bill & history C

H. Committee on Judiciary

Hearing Date(s) Jan 9 ☒ C

_____ C

_____ C

_____ C

Date Out Jan 9 ☒ C

S. Committee on Judiciary

Hearing Date(s) Mar 3 ☒ C

_____ C

_____ C

_____ C

Date Out Mar 3 ☒ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

HOUSE FINAL STATUS

1/08 HEARING
 1/08 COMMITTEE REPORT--BILL PASSED AS AMENDED
 1/10 2ND READING PASSED 90 3
 1/12 3RD READING PASSED 95 2

 TRANSMITTED TO SENATE
 1/13 REFERRED TO STATE ADMINISTRATION
 1/16 HEARING
 1/17 COMMITTEE REPORT--BILL CONCURRED
 1/21 2ND READING CONCURRED 45 0
 1/23 3RD READING CONCURRED 47 0

 RETURNED TO HOUSE
 1/30 SIGNED BY SPEAKER
 1/31 SIGNED BY PRESIDENT

 2/02 TRANSMITTED TO GOVERNOR
 2/05 SIGNED BY GOVERNOR
 CHAPTER NUMBER 6 EFFECTIVE DATE: 10/01/87

HB 51 INTRODUCED BY PECK, ET AL.
 MAKING ORAL INTERVIEWS OF DENTISTRY LICENSE
 APPLICANTS DISCRETIONARY
 BY REQUEST OF BOARD OF DENTISTRY

1/05 INTRODUCED
 1/05 REFERRED TO BUSINESS & LABOR
 1/13 HEARING
 1/14 COMMITTEE REPORT--BILL PASSED
 1/16 2ND READING PASSED 96 2
 1/17 3RD READING PASSED 95 2

 TRANSMITTED TO SENATE
 1/21 REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY
 2/02 HEARING
 3/02 COMMITTEE REPORT--BILL CONCURRED
 3/04 2ND READING CONCURRED 45 0
 3/06 3RD READING CONCURRED 47 0

 RETURNED TO HOUSE
 3/10 SIGNED BY SPEAKER
 3/10 SIGNED BY PRESIDENT

 3/11 TRANSMITTED TO GOVERNOR
 3/13 SIGNED BY GOVERNOR
 CHAPTER NUMBER 62 EFFECTIVE DATE: 10/01/87

HB 52 INTRODUCED BY THOMAS
 ALLOWING MARITAL STATUS TO BE USED AS A FACTOR IN
 SETTING AUTO INSURANCE RATES

1/05 INTRODUCED
 1/05 REFERRED TO BUSINESS & LABOR
 1/13 HEARING
 2/11 TABLED IN COMMITTEE

HB 53 INTRODUCED BY EUDAILY
 GENERALLY REVISE MONTANA CODE ANNOTATED
 BY REQUEST OF CODE COMMISSIONER

1/05 INTRODUCED
 1/05 REFERRED TO JUDICIARY
 1/09 HEARING
 1/12 COMMITTEE REPORT--BILL PASSED AS AMENDED

HOUSE FINAL STATUS

1/14	2ND READING PASSED	91	3
1/15	3RD READING PASSED	95	3
	TRANSMITTED TO SENATE		
1/21	REFERRED TO JUDICIARY		
3/03	HEARING		
3/12	COMMITTEE REPORT--BILL CONCURRED		
3/17	2ND READING CONCURRED AS AMENDED	50	0
3/19	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE WITH AMENDMENTS		
3/25	2ND READING AMENDMENTS CONCURRED	74	24
3/26	3RD READING AMENDMENTS CONCURRED	89	9
4/01	SIGNED BY SPEAKER		
4/02	SIGNED BY PRESIDENT		
4/02	TRANSMITTED TO GOVERNOR		
4/07	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 370 EFFECTIVE DATE: 10/01/87		

HB 54 INTRODUCED BY THOMAS
IMMUNITY FOR OFFICERS, ETC., OF NONPROFIT
CORPORATIONS

1/05 INTRODUCED
1/05 REFERRED TO BUSINESS & LABOR
2/16 TABLED IN COMMITTEE

HB 55 INTRODUCED BY HARRINGTON
STATUTE OF LIMITATIONS FOR PUBLIC SERVICE COMMISSION
AND CONSUMER COUNSEL TAX
BY REQUEST OF DEPARTMENT OF REVENUE

1/05 INTRODUCED
1/05 REFERRED TO TAXATION
1/09 HEARING
1/09 COMMITTEE REPORT--BILL NOT PASSED AS AMENDED
1/10 ADVERSE COMMITTEE REPORT ADOPTED 63 31

HB 56 INTRODUCED BY ASAY
EXPANDING PURPOSES FOR COAL BOARD GRANTS AND LOANS

1/05 INTRODUCED
1/05 REFERRED TO TAXATION
1/12 HEARING
2/13 COMMITTEE REPORT--BILL PASSED AS AMENDED
2/16 2ND READING PASSED 88 8
2/17 3RD READING PASSED 91 5

TRANSMITTED TO SENATE
2/19 REFERRED TO TAXATION
3/17 HEARING
DIED IN COMMITTEE

HB 57 INTRODUCED BY SALES
PROHIBITING PREFERENCES AND ADDING AGE AS
NONDISCRIMINATION CLASSIFICATION

1/05 INTRODUCED
1/05 REFERRED TO JUDICIARY
1/31 FISCAL NOTE REQUESTED
2/09 FISCAL NOTE RECEIVED
2/17 HEARING
2/20 TABLED IN COMMITTEE

MINUTES OF THE MEETING
JUDICIAL COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

The meeting of the Judicial Committee was called to order by Chairman Earl Lory on January 9, 1987, at 8:00 a.m. in Room 312-D of the State Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL NO. 53: Each year a code bill is introduced and presented. (Exhibit A). The code commissioner is by law required to review the codes for errors, omissions and duplications. Representative Ralph Eudaily, House District #60, presented steps to show what is actually done. His first clarification started with page 3 of the bill on line 4, it matches section 2 of the green sheets. The word department in this section is not defined and is substituted with department of administration. It is a clarification. Another example to look at is section 62 on page 79, line 19. This is in reference to the sheriff's retirement board. The sheriff's retirement fund is handled by the P.E.R.S. board and is no longer handled by the sheriff's retirement board but the code still has that information in it, so it is logical that that be deleted.

Rep. Eudaily called on Greg Petesce, newly appointed acting code commissioner, to explain further the new procedure implemented this year. Mr. Petesce said that at the time this bill was drafted, each proposed provision that affected an agency was sent to that agency for its review. This insured the agency that no substitutive changes in the law had occurred without the knowledge of the agency. All agencies have concurred with these changes. Mr. Petesce introduced a short form amendment in the green sheets to update some archaic terminology referring to aid to dependent children. The department of social rehabilitation services asked that a search of the code be done and wherever that term appeared that the substitute "aid to the families with dependant children" be inserted.

QUESTIONS (OR DISCUSSION) ON HOUSE BILL NO. 53: Representative Joan Miles asked Mr. Petesce if when he goes through the Supreme Court decisions and there is something declared unconstitutional, is it taken out of the code? Mr. Petesce replied that that has not been done in the past nor has it been done in this bill. Suggestive legislation files are kept of these things and presented to the Judiciary

committee for their consideration as to whether they wanted to address them.

There were no proponents or opponents and no further questions. The hearing on HB #53 was closed.

CONSIDERATION OF HOUSE BILL #42: Representative John Cobb, House District #42, sponsor of the bill, stated that the purpose of this bill was to clarify a ruling of the Montana Supreme Court. Rep. Cobb submitted amendments to this bill. (Exhibit B). In the past, the court defined what kind of duty a landowner had to someone who came onto his property and defined the status of trespasser, licensee and invitee. The court now states, in a brief way, that it is not going to care about status anymore. There will be one standard which is termed ordinary care. Two statutes in this bill deal with recreation and with whether a person coming onto a landowners property is an invitee or licensee.

SUPPORTERS: Mr. Scott Ross, on behalf of the coalition of stream access, went on record to support this bill.

Mr. Jim Flynn, Department of Fish, Wildlife and Parks, submitted written testimony. (Exhibit C). He supports the clarification of the legal standard governing landowner liability under two circumstances. The standard of wilful or wanton misconduct under present law and under the amendments of this bill, describe the duty owed by landowners or tenants toward recreationists portaging or using portage routes and toward persons recreating on land where no payment was made for the privilege.

Mr. Stan Bradshaw, State Council of Trout Unlimited, supports this bill in the fact that landowners should have limited liability.

Ms. Jean Klobnak, Montana Wildlife Federation, went on record to state that the federation supports this bill.

Representative Edward Grady supports HB #42 in hopes it will relieve landowners burdens.

QUESTIONS (OR DISCUSSION) ON HOUSE BILL NO. 42: Representative Tom Bulger, questioned Rep. Cobb regarding furnishing an example which would give the difference between the two standards of care. He explained the higher duty the landowner has if someone goes on his property with his knowledge. The landowner must make invitee aware of any existing dangers.

Representative Ralph Eudaily questioned Rep. Cobb regarding amendment two, which states "as otherwise provided by law".

Rep. Cobb asked John MacMaster, staff attorney, to explain this. Mr. MacMaster replied that Mr. Petesce decided that instead of specifically listing terms this particular term would be have a general use.

Representative Tom Hannah asked Rep. Cobb about the term recreational use of land. As an example he referred to a neighbors child that comes into his ditch and drowns. Whose duty would it be? Rep. Cobb answered by stating that the child was not using the ditch for recreational purposes so the duty is at a lower rate. Rep. Cobb explained that this bill will clarify but will not change the bill. No law is being rewritten.

There were no further proponents or opponents. Rep. Cobb closed.

EXECUTIVE SESSION:

ACTION ON HB #53: Rep. Gould moved that HB #53 DO PASS. The motion was seconded. Question was called, and all voted in favor with the exception of Rep. Hannah.

ACTION ON HB #42: Rep. Mercer moved that HB #42 DO PASS AS AMENDED. The motion was seconded. Question was called, and the vote was carried unanimously.

ACTION ON HB #21: Rep. Brown read the amendments to be added. (Exhibit D). He stated that he feels this is a reversion clause that basically says, if the Supreme Court upholds the South Dakota suit, the Montana law reverts back to existing statute, age 19. Rep. Brown moves the amendments. Discussion on the amendments follows: Rep. Addy tries to understand the mechanics of the bill and questions if we are amending the title or the existing amendment. Chairman Lory requests that John MacMaster, staff attorney, clarify this point. Mr. MacMaster states that if the United States Supreme Court strikes down the federal law that is requiring us to amend this, then what will happen under the new section 16 that Rep. Brown is putting in, is that the first ten (10) sections now in the bill will be repealed. The first five (5) sections which are essentially the grandfather will be repealed. Section 6-10 which then sets the age at 21 will also be repealed. Section 11, 12, 13, 14, and 15 of Rep. Brown's amendments will go into effect. They are the law as it currently reads. The effective date is essentially in amendment #5.

Rep. Miles feels that the bill amendments do not look different to her.

STANDING COMMITTEE REPORT

January 9,

87
19

JUDICIARY

Mr. Speaker: We, the committee on

report House Bill No. 53

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

Chairman

"AN ACT TO GENERALLY REVISE AND CLARIFY THE MONTANA CODE ANNOTATED; AND
REPEALING SECTIONS 2-17-106, 2-17-109, 2-17-110, 7-15-4122, 7-33-4203,
AND 50-5-421 THROUGH 50-5-424, MCA."

FIRST

WHITE

reading copy (color)

EXHIBIT H

DATE 1-9-87

HB# 53

CODE COMMISSIONER REPORT

1986

1987 CODE COMMISSIONER BILL SUMMARY

Section 1. 2-15-1857. Makes permanent bracketed language inserted to clarify that the governor has the appointing power.

Section 2. 2-18-703. In (4) substitutes "department of administration" for "department" which is not defined.

Section 3. 5-11-206. In (3) substitutes "code sections affected list" for "code index" to accurately reflect the content of the document.

Section 4. 5-11-208. Revises internal reference which included 5-11-204, the section authorizing the secretary of state to assign chapter numbers, not the legislative council.

Section 5. 7-2-2730. Section 6. 7-2-2748. Section 7. 7-2-2749. Revise reference to reflect repeal of 7-7-2105.

Section 8. 7-3-4264. Section 9. 7-3-4265. Revise reference to reflect repeal of 7-3-4263.

Section 10. 7-4-2631. In (1)(j) clarifies that fees are no longer contained in the statutes but are set by rule. (See 30-9-403(5) and (12).)

Section 11. 7-6-308. Removes reference to "7-6-304" because mill values are not used in that section.

Section 12. 7-6-4423. In (1)(c) substitutes "7-12-4182" for "7-12-4181" because that is the section providing for declaring the assessment delinquent.

Section 13. 7-6-4439. Revises reference to reflect repeal of 7-6-4433 and 7-6-4435.

Section 14. 7-6-4463. Revises outline form to remove internal inconsistency.

Section 15. 7-7-2302. Revises reference to reflect repeal of 7-7-2208 and 7-7-2271.

Section 16. 7-7-4302. Revises reference to reflect repeal of 7-7-4207 and 7-7-4271.

Section 17. 7-12-1103. Substitutes "7-12-1121" for "7-12-1112" to reflect that board of trustees is authorized in 7-12-1121.

Section 18. 7-12-4429. In (2) substitutes "7-12-4402" for "7-12-4405" because districts are created under 7-12-4402.

Section 19. 7-13-114. Deletes reference to "the powers and duties of the county commissioners" because not all sections referred to relate to county commissioners and adds language clarifying that the referenced sections are inapplicable if in conflict with Title 7, chapter 13, part 1.

Section 20. 7-13-2242. Substitutes "7-13-2239" for "7-13-2240" because 7-13-2239 contains the requirement for naming the person to whom the petition is returned.

Section 21. 7-13-2510. Section 22. 7-14-1133. Section 23. 7-14-2745. Section 25. 7-15-4322. Section 26. 7-31-112. Section 29. 7-34-2415. Section 71. 20-9-410. Section 128. 67-11-303. Section 129. 69-4-332. Clarify that 17-5-102 no longer limits interest but allows the governing body to set interest rates.

Section 24. 7-14-2823. In (2)(a) and (2)(c) inserts "on" for grammatical reasons.

Section 27. 7-32-4153. Revises reference to reflect the fact that the word "mayor" is not used in 7-32-4155 through 7-32-4159.

Section 28. 7-34-2131. Removes reference to "second or third class" school districts because there is no longer a difference in bonding for districts based on class.

Section 30. 10-4-101. Section 36. 15-6-135. Section 37. 15-8-111. Section 38. 15-8-201. Section 44. 15-23-701. Section 45. 15-24-901. Section 66. 20-3-108. Section 76. 30-10-103. Section 77. 30-10-204. Section 84. 33-20-1111. Section 90. 37-16-404. Section 93. 37-51-301. Section 94. 37-72-101. Section 97. 39-71-403. Section 105. 46-18-222. Section 106. 46-18-231. Section 107. 46-19-103. Section 111. 53-5-503. Section 112. 53-6-141. Section 113. 53-20-202. Section 115. 61-5-121. Section 131. 71-3-302. Section 138. 75-1-1101. Section 143. 82-4-232. Section 145. 85-2-322. Section 148. 85-2-507. Section 149. 85-8-350. Section 154. 90-8-104. Correct erroneous subsection references.

Section 31. 13-1-101. In (10) substitutes "or" for "and" because reference should be disjunctive rather than conjunctive.

Section 32. 13-1-203. Removes reference to mileage and expenses "for county officials" because 2-18-501 through 2-18-503 set rates for all state employees.

Section 33. 13-17-103. In (8) substitutes "is" for "will be" to reflect contractual requirement rather than future provision.

Section 53. 16-1-105. Revises section to reflect repeal of Title 16, chapter 5.

Section 54. 16-1-306. Inserts references to reflect statutory assignment of revenues.

Section 55. 17-5-1202. Corrects improper citation to federal act.

Section 56. 17-6-103. Adds reference to bonds issued under Title 7, chapter 12, part 42, for consistency because part 42 is a continuation of part 41.

Section 57. 17-6-302. Substitutes "17-6-306" for "17-6-305" to reflect establishment of fund in 17-6-306.

Section 58. 18-1-103. In (1) and (4) deletes "18-1-112" because "resident" is not used in 18-1-112.

Section 59. 18-2-201. In (1) substitutes "85-1-219" for "18-1-219" to correct a typographical error and to correctly reflect codification of section 1 of Ch. 498, L. 1985. In (3) inserts "of" for grammatical purposes.

Section 60. 19-3-906. In (2)(b) inserts "he" for grammatical purposes to conform with (2)(a).

Section 61. 19-4-902. Revises section to reflect that only superannuation "allowance" is prescribed under Title 19, chapter 4, part 8.

Section 62. 19-7-101. Section 63. 19-7-405. Delete references to sheriffs' retirement board which no longer exists. System is administered by public employees retirement board.

DATE 1-9-87
H5 #53

Section 34. 13-37-303. In (1) in last sentence inserts "to" for proper grammar.

Section 35. 15-1-101. Section 46. 15-24-1102. Section 47. 15-24-1103. Extend reference to include all classes of property.

Section 39. 15-10-203. Section 40. 15-10-204. Insert "or proposed" before "budget" to reflect name change of county preliminary budget created by Ch. 206, L. 1985.

Section 41. 15-16-305. Substitutes third "Tuesday" of February for third "Monday" because third Monday is Washington's birthday, a legal holiday.

Section 42. 15-17-101. Moves "that" in lead-in phrase for proper outline form.

Section 43. 15-23-616. Deletes reference to "net proceeds" because 15-23-602 does not use that phrase.

Section 48. 15-30-111. In (2)(i) inserts reference to 19-13-1003, to reflect tax exemption contained in firefighters' unified retirement system.

Section 49. 15-30-321. In (1) in second parenthetical makes language consistent with first parenthetical.

Section 50. 15-31-406. Revises reference to reflect repeal of 15-31-542.

Section 51. 15-35-102. In (12) revises definition to reflect that "surface mining" is not defined in 82-4-203.

Section 52. 15-59-121. Revises reference to reflect repeal of 15-59-103 and renumbering of 15-59-111 as this section.

11
DATE 1-9-87
HS #53

Section 64. 19-10-202. In (2) in four places inserts references to town to reflect the content of the section.

Section 65. 19-11-203. Deletes reference to Title 19, chapter 11, part 3, which was repealed.

Section 67. 20-5-301. In (3)(e) revises text for proper outline form.

Section 68. 20-7-117. In (1) in two places substitutes "have" for "has" for proper grammatical use of tense.

Section 69. 20-9-165. Deletes "in accordance with 20-15-302" to reflect repeal of 20-15-302.

Section 70. 20-9-343. In (3)(c) inserts language to reflect distribution of funds under 15-35-108, in (3)(g) deletes redundant language, and in (4) removes bracketed language because there is no longer a permissive account.

Section 72. 20-15-403. Deletes reference to 7-8-2215 because "school district" is not used in that section.

Section 73. 20-15-404. In (4) extends reference to include 20-7-713.

Section 74. 20-25-302. At end of (2) clarifies that nonresident students are not defined in 20-25-421, but that charges are made under 20-25-421 for nonresident students.

Section 75. 30-4-302. Numbers subsections to reflect MCA style.

Section 78. 32-1-803. Revises reference to reflect repeal of 32-1-304.

Section 79. 33-1-104. Section 80. 33-1-313. Section 81. 33-1-317. Section 85. 33-30-111. Section 86. 33-30-112. Section 87. 33-30-113. Section 88. NEW. Make 33-30-1012, which was enacted without a codification instruction, subject to the general provisions of the insurance law.

Section 82. 33-17-211. In (9) clarifies that 33-17-212 requires an examination but does not prescribe the examination fee.

Section 83. 33-20-103. Revises reference to reflect renumbering of 33-20-109 as 33-20-131.

Section 89. 35-12-1308. Revises reference to reflect that this section itself is not included in those which may be violated.

Section 91. 37-30-425. In (7) revises language to conform to 37-30-203, which does not describe offenses but grants rulemaking authority.

Section 92. 37-42-305. Deletes reference to 37-42-301 because it does not refer to an examination.

Section 95. 39-51-201. In (4) hyphenates "52-consecutive-week" for proper usage, and in (11) inserts "to be paid" for readability.

Section 96. 39-71-118. In (1)(d) substitutes "superintendent of public instruction" for "board of public education" to reflect the superintendent's authority to approve vo-tech programs.

Section 98. 40-4-209. In (5) clarifies that the department of revenue is the agency to adopt guidelines for child support enforcement.

Section 99. 41-3-611. Substitutes "41-3-610" for "41-3-609" because other placement proceedings are held pursuant to 41-3-610.

Section 100. 41-5-206. Deletes (1)(a)(ii)(F) because it is covered under (1)(a)(i) and applies to youths over 12, and corrects internal reference as a result of this change.

Section 101. 41-5-523. In (2) inserts "a" for grammatical reasons.

Section 102. 44-1-403. Substitutes "five" for "12" to reflect the proper number of highway districts.

Section 103. 44-1-1005. In (3) substitutes "provided for" for "defined" because subsection (1)(a) does not define motor vehicle inspections but grants rulemaking authority.

Section 104. 46-18-201. In (4) corrects reference and adds language to clarify that the mandatory minimum sentence applies to aggravated assault rather than felony assault.

Section 108. 50-5-101. In (19) substitutes "youth care facilities" for "boarding or foster homes for children" to reflect the terminology used in Title 41, chapter 3.

Section 109. 50-73-102. Deletes definition of "following shot" because it is not used in Title 50, chapter 73.

Section 110. 53-2-813. Deletes reference to subsection (1)(b) and deletes the subsection in its entirety because it is no longer applicable.

Section 114. 61-3-102. Makes permanent the bracketed language "in performing its duties under this title".

Section 116. 61-9-402. In (6) deletes reference to subsections (1), (2), and (3) because amber lights aren't mentioned in those subsections.

Section 117. 61-10-108. Section 118. 61-10-122. Section 119. 61-10-124. Section 120. 61-01-128. Section 121. 61-10-141. Section 122. 61-10-142. Section 123. 61-10-143. Clarify that department referred to is highways. Title definition found in 61-1-301 refers to department of justice.

Section 124. 61-11-203. Makes subsection (3) freestanding for proper outline form.

Section 125. 67-3-101. In (2) inserts "sales" before "dealers" to conform to first clause of (2).

Section 126. 67-3-201. Section 127. 67-3-202. Clarify that subsection (3) of 67-3-201 applies to itself.

Section 130. 69-14-805. Revises reference to reflect repeal of 69-14-802.

Section 132. 71-3-603. In (1) substitutes "71-3-605" for "71-3-606" because 71-3-605 provides for filing by the lien claimant, and in (2) substitutes "71-3-606" for "71-3-605" because 71-3-606 provides for filing the claim of the landowner.

Section 133. 71-3-611. Substitutes "71-3-603" for "71-3-605" because 71-3-603 contains the 3-month time limit.

Section 134. 72-11-103. Substitutes "an ancestor" for "the ancestors" for grammatical propriety.

Section 135. 72-16-454. Substitutes "35%" for "65%" to reflect 1983 amendment of 72-16-452.

Section 136. 72-17-206. Substitutes "72-17-301(2)" for "72-17-310(2)" in two places to correct error and reflect renumbering of sections.

Section 137. 72-17-311. Removes an unclear reference to a subsection and rearranges terms for clarity.

Section 139. 75-20-216. Revises reference to reflect repeal of 75-20-214.

Section 140. 76-3-103. In (12) and (13) removes reference to former title of act and makes parenthetical code citation permanent.

Section 141. 80-4-427. Substitutes "80-4-428" for "80-4-429" because the criminal penalty for operating without a license is found in 80-4-428.

Section 142. 81-8-216. In two places revises reference to reflect repeal of 81-8-257.

Section 144. 82-11-131. Revises last sentence for comprehension.

Section 146. 85-2-421. Section 147. 85-2-422. Revise reference to reflect repeal of 85-2-425.

Section 150. 85-8-624. In (3)(a), (3)(c), and (3)(d)² corrects erroneous subsection reference, and in (3)(b) substitutes "85-8-302" for "85-8-304" because 85-8-302 provides for the manner of conducting the election.

Section 151. 87-1-209. Clarifies that the notice requirement is found in subsection (3)(b) of this section.

Section 152. 87-3-101. Substitutes "61-1-202" for "61-1-201" because 61-1-202 defines public highway.

Section 153. 87-5-109. At end of (2) substitutes "87-5-105" for "87-5-104" because 87-5-105 grants the authority for issuing regulations.

Section 155. NEW. Requested by department of social and rehabilitation services to revise archaic terminology.

Section 156. Repealer. (1) Section 2-17-106 is no longer necessary, particularly because of the construction of the DNRC building. Section 2-17-101 governs space assignment generally.

(2) Section 2-17-109 and 2-17-110 were rendered ineffective by Ch. 33, Sp. L. June 1986, which transferred renovation funds to the long-range building debt service fund.

(3) Sections 7-15-4122 and 7-33-4203 were held to have been impliedly repealed by the state building code in 40 A.G. Op. 76 (1984).

(4) Sections 50-5-601 through 50-5-603 and 50-5-611 are identical to sections 50-5-421 through 50-5-424 and are therefore unnecessary.

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MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

March 3, 1987

The thirty-fourth meeting of the Senate Judiciary Committee was called to order at 10:00 a.m. on March 3, 1987, by chairman Joe Mazurek, in Room 325 of the state Capitol.

ROLL CALL: All members were present. Senators Crippen, Brown and Halligan arrived late.

CONSIDERATION OF HOUSE BILL 53: Representative Ralph Eudaily, Missoula, presented the bill with all of its amendments. (Exhibit 1) He explained HB 53 is at the request of the Code Commissioner of the Legislative Council and corrects errors found in the MCA since the last legislative session.

Greg Petesch, Legislative Council, stated the council went through a new procedure this time with Code Commissioners by giving copies of the changes to all agencies, and they in return gave us written testimony on what they agreed with and what they didn't.

DISCUSSION ON HOUSE BILL 53: Senator Blaylock asked if there was any mischief in this bill. Greg Petesch, by word of honor, said there was none.

Representative Eudaily closed the hearing.

Valencia Lane presented to the committee, repealers for HB 53. (Exhibit 2)

CONSIDERATION OF HOUSE BILL 42: Representative John Cobb, Augusta, opened the hearing on HB 42. (Exhibit 3)

PROPOSERS: Jim Flynn, Department of Fish, Wildlife and Parks, supported the bill. (Exhibit 4)

Judiciary Committee
Minutes of the meeting
March 11, 1987
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the fee deals with filing in the wrong county, so the person will have to refile again in the right county. He said the House deleted that.

Representative Pistoria closed.

EXECUTIVE ACTION:

ACTION ON HB 53: Senator Blaylock moved to strike the previous adopted amendments because in the bill Valencia found a statute that will keep the maintainance of the Old Supreme Court Chambers up. The motion CARRIED. Senator Blaylock moved the bill BE CONCURRED IN. The motion CARRIED.

CONSIDERATION OF HJR 21: Representative John Mercer of Polson presented HJR 21 (see Exhibit 3).

PROPOSERS: None

OPPOSERS: Pat Melby, Montana State Bar Association, said that HJR 21 will cause someone to pay a \$100 filing fee for a second judge to come to a county and do a trial. He said the first judge was disqualified, but the first judge picks the second judge.

Karl Englund, Montana Trial Lawyers Association, opposed the bill because a second judge will have to be "broken in" to a case by a lawyer that has been with the case for months and then part of the trial which the first judge was disqualified at.

John Hoyt, Great Falls lawyer, opposed the bill also.

DISCUSSION ON HJR 21: Senator Pinsoneault asked what the sister states do with this kind of situation. Mr. Hoyt said some of the states can have up to three judges for a trial, while other only allow one no matter what. Mr. Englund commented that he rarely uses a challenge to have another judge come into one of his trials.

Representative Mercer closed on HJR 21.

EXECUTIVE ACTION

ACTION ON HB 664: Senator Blaylock moved the bill BE CONCURRED IN. The motion CARRIED.

ACTION ON HB 396: Senator Pinsoneault moved the bill BE CONCURRED IN. The motion CARRIED with Senator Blaylock voting no.

ACTION ON HB 558: Senator Yellowtail commented that there are ways to conceal alcohol in drinks and drugs also. Senator Crippen said the question is if someone put something in your drink, if you are responsible